

the taxable year in which such items are received.

(2) *Exemption from withholding of United States tax*—(i) *Notification by letter*. To avoid withholding of United States tax at source on or after January 1, 1958, in the case of the items of income to which this paragraph applies, the nonresident alien individual who is a resident of Austria, or the Austrian corporation or other entity, shall notify the withholding agent by letter in duplicate that the income is exempt from United States tax under the provisions of Article VIII(1) of the convention.

(ii) *Manner of filing letter*. The provisions of § 516.4(d)(2) relating to the execution, filing, effective period, and disposition of the letter of notification prescribed therein, including its use for the release of excess tax withheld, are equally applicable with respect to the income falling within the scope of this paragraph.

(iii) *Reasonableness of consideration*. For purposes of this subparagraph, the withholding agent may, unless he has information to the contrary, presume that the royalty or other like amount represents a fair and reasonable consideration for the right involved.

(b) *Motion picture film rentals*—(1) *Reduced rate*. Under Article VIII(2) of the convention, the rate of United States tax imposed upon motion picture film rentals received from sources within the United States on or after January 1, 1957, by a nonresident alien individual who is a resident of Austria, or by an Austrian corporation or other entity, shall not exceed the lesser of (i) 50 percent of the statutory rate of tax imposed on such rentals by the United States or (ii) 10 percent of the gross amount of such rentals, if such alien, corporation, or other entity at no time during the taxable year in which such rentals are received has a permanent establishment in the United States.

(2) *Reduction in rate of withholding of United States tax*—(i) *Notification by letter*. To secure withholding of United States tax at source on or after January 1, 1958, at the reduced rate (10 percent, as of the date of approval of §§ 516.1 to 516.12, of the gross amount of the rentals) in the case of the motion picture film rentals to which this para-

graph applies, the nonresident alien individual who is a resident of Austria, or the Austrian corporation or other entity, shall notify the withholding agent by letter in duplicate that the rentals are subject to United States tax at the reduced rate under the provisions of Article VIII(2) of the convention.

(ii) *Manner of filing letter*. The provisions of § 516.4(d)(2) relating to the execution, filing, effective period, and disposition of the letter of notification prescribed therein, including its use for the release of excess tax withheld, are equally applicable with respect to the rentals falling within the scope of this paragraph except that the release of excess tax withheld from such rentals shall be made in accordance with § 516.9(a)(6).

§ 516.6 Private pensions and private life annuities.

(a) *Exemption from tax*. Private pensions and private life annuities which are from sources within the United States and are paid on or after January 1, 1957, to a nonresident alien individual who is a resident of Austria are exempt from United States tax under the provisions of Article XI (2) of the convention.

(b) *Exemption from withholding of United States tax*—(1) *Notification by letter*. To avoid withholding of United States tax at source on or after January 1, 1958, in the case of the items of income to which this section applies, the nonresident alien individual who is a resident of Austria shall notify the withholding agent by letter in duplicate that the income is exempt from United States tax under the provisions of Article XI (2) of the convention. The letter of notification shall be signed by the owner of the income, shall show the name and address of both the payer and the owner of the income, and shall contain a statement that the owner, an individual, is neither a citizen nor a resident of the United States but is a resident of Austria.

(2) *Use of letter for release of tax*. If the letter is also to be used as authorization for the release, pursuant to § 516.9(a)(5), of excess tax withheld from such items of income, it shall also contain a statement that the owner was,

at the time when the income was paid from which the excess tax was withheld, neither a citizen nor a resident of the United States but was a resident of Austria.

(3) *Manner of filing letter.* The letter of notification shall constitute authorization for the payment of such items of income without withholding of United States tax at source unless the Commissioner of Internal Revenue subsequently notifies the withholding agent that the tax shall be withheld with respect to payments of such items of income made after receipt of such notice. If, after filing a letter of notification, the owner of the income ceases to be eligible for the exemption from United States tax granted by the convention in respect to such income, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the income as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(4) *Disposition of letter.* Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington, D.C.

(c) *Definitions.* As used in this section, the term “pensions” means periodic payments made in consideration for services rendered or by way of compensation for injuries received, and the term “life annuities” means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration in money or money’s worth. Neither term includes retired pay or pensions paid by the United States or by any State or Territory of the United States.

§ 516.7 Sources of income.

For determining the sources of income for purposes of §§ 516.1 to 516.12 see sections 861 to 864, inclusive, of the Internal Revenue Code of 1954 and Article II (2) of the convention.

§ 516.8 Beneficiaries of an estate or trust.

(a) *Entitled to benefit of convention.* If he otherwise satisfies the requirements of the respective articles concerned, a nonresident alien who is a beneficiary of an estate or trust shall be entitled to the exemption from, or reduction in the rate of, United States tax granted by Articles VI, VII, VIII, and XIV of the convention with respect to dividends, interest, and copyright royalties and other like amounts, to the extent that (1) any amount paid, credited, or required to be distributed by such estate or trust to such beneficiary is deemed to consist of such items, and (2) such items would, without regard to the convention, be includible in his gross income.

(b) *Withholding of United States tax.* In order to be entitled in such instance to the exemption from, or reduction in rate of, withholding of United States tax, the beneficiary must otherwise satisfy such requirements and shall, where applicable, execute and submit to the fiduciary of the estate or trust in the United States the appropriate letter of notification prescribed in §§ 516.4(d)(2), 516.5(a)(2) and (b)(2).

(c) *Amounts otherwise includible in gross income of beneficiary.* For the determination of amounts which, without regard to the convention, are includible in the gross income of the beneficiary, see subchapter J of chapter 1 of the Internal Revenue Code of 1954, and the regulations thereunder (§§ 1.641–1 to 1.692–1 of this chapter).

§ 516.9 Release of excess tax withheld at source.

(a) *Amounts to be released—(1) Dividends and interest paid by Austrian corporation.* If United States tax at the statutory rate has been withheld on or after January 1, 1958, from dividends and interest paid by an Austrian corporation (other than a United States corporation) to a recipient who is a nonresident alien or a foreign corporation, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the tax so withheld.

(2) *Dividends subject to 50 percent of statutory rate.* If United States tax at the statutory rate has been withheld